

Ser. No. 09/856,497 (GAU 3721)
Response to O.A. dated 8/19/03

REMARKS

In response to the official action:

Claims 1-5, 10, and 11 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The claims are amended in view of the Examiner's remarks.

Claims 1, 2, 4, 5, and 10 are rejected under 35 U.S.C. §102 as being anticipated by Yamaoka (U.S. Patent 6,208,911). This rejection is respectfully traversed.

Yamaoka discloses (Figs. 3-8) a medication filling apparatus with a plurality of tablet cases 7 holding medications, and a rotary plate 16 which is divided by partitions 21 into radial receiving sections 22. The Examiner asserts that the receiving sections 22 anticipate the claimed plurality of hoppers.

Amended claims 1, 4 and 5 recite

a plurality of hoppers each unitary and distinct from other ones of the hoppers, the hoppers being disposed side by side below the tablet cases and in alignment with respective ones of each of the tablet cases to receive the medications dispensed therefrom,

(1) Yamaoka's sections 22 do not anticipate because they are not unitary and distinct, but are merely portions of the unitary rotary plate 16.

(2) Yamaoka's round rotary plate 16 does not extend under the tablet cases 7 in the corners of the square array of tablet cases. In the corners, Yamaoka provides auxiliary plates 18 "which are inclined lowly in the direction to the rotary plate 16" (column 5, line 29). When medication is dropped onto an auxiliary plate, the section 22 that will receive the medication is predicted based on experiments (column 7, lines 35-38). This is an unreliable method, and the

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round plate also has other disadvantages, that are noted on page 3 of the specification in this application.

In contrast, the hoppers of the Applicants are "in alignment with respective ones of each of the tablet cases." Every tablet case is above a respective hopper and there is no uncertainty about which hopper the medication will enter.

(3) Amended claim 1 recites

retaining members on which the hoppers are hung, wherein the hoppers are detachably installed onto the retaining members.

Since claim 1 also recites that the hoppers are distinct and deployed side-by-side, this implies that each hopper is individually detachable. Yamaoka's round rotary plate 16 is unitary and none of the sections 22 is detachably installed. Moreover, the shaft of a motor is not a "retaining member," because it moves the plate 16, it does not retain it. Still further, Yamaoka does not actually disclose that the plate 16 is detachable; the Examiner has inferred this from the drawing.

(4) New claims 13, 15, and 17 recite a plurality of holding cells, which are not disclosed by Yamaoka.

New claims 19-21 recite that the hoppers are rectangular, which is not disclosed by Yamaoka.

New claim 18 recites a rotating plate disposed below the hoppers. Since the rejection identifies the rotating plate 16 of Yamaoka with the claimed hoppers, the rotating plate of claim 18 cannot be identified with the Yamaoka's plate 16, and therefore is not disclosed by the reference.

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Claims 3 and 11 are rejected under 35 U.S.C. §103 as being unpatentable over Yamaoka. This rejection is respectfully traversed.

The Examiner admits that Yamaoka discloses its sections 22 to be at a "predetermined height" (page 6, line 9) but states that the feature of claim 3 is obvious, because it would have been obvious to add a height adjusting mechanism. The Examiner is seen to take official notice of a height adjusting mechanism, and this is respectfully traversed. The Examiner is requested to provide an actual reference or an affidavit in accordance with MPEP 2144.03 ("If the applicant traverses [Official Notice] the examiner should cite a reference").¹

Moreover, the proposed motivation for adding a height adjusting mechanism, i.e. that "the medication could be properly retained in the hoppers," is unrelated to the feature of claim 3, which recites adjusting the height of the dispensing port of each hopper (i.e., it has to do with medication leaving the hopper, not entering it); and the Examiner's proposed motivation is not supported by either citation or argument.

In regard to claim 11, the Examiner also seen to take official notice and the Applicants again traverse and request a reference or affidavit.

In view of the aforementioned amendments and accompanying remarks, the claims are believed to be in condition for allowance. Withdrawal of the rejection and allowance of all claims is requested.

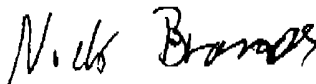
¹ If the present rejection is to be maintained in any future Office Action, that Action should be non-final if any new issue arises, for example by Applicant's argument that the new reference supplied by the Examiner in response to this request teaches against the asserted combination. MPEP 2144.03.

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In the event this paper is not timely filed, then this paper is a petition for an appropriate extension of time. The fees for such an extension or any other fees which may be due with respect to this paper may be charged to Deposit Account No. 01-2340.

Respectfully submitted,

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